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recommendation of the Subcommittee on Academic Affairs, and

(b) The recommendation for approval shall be accompanied by the written draft of the certificate of award stating all conditions which the grantee is required to agree to under the provisions of § 17.258 and all other conditions to which it has been determined the grant will be subject, and

(c) The recommendation shall include a certification that sufficient appropriated funds are available, and that the application for the grant is sufficient in all details as specified in §§ 17.254 through 17.256.

[33 FR 6012, Apr. 19, 1968, as amended at 42 FR 54805, Oct. 11, 1977. Redesignated and amended at 61 FR 21966, 21969, May 13, 1996]

§ 17.258 Terms and conditions to which awards are subject.

Each certificate of award of a grant for planning or implementing an agreement for the exchange of information or information facilities shall specify that the grant is subject to the following terms and conditions:

(a) *Grants subject to terms of agreement for exchange of information.* Each grant shall be subject to, and the certificate shall incorporate by reference, all terms, conditions, and obligations specified in the agreement or planning protocols which the grant will implement, and

(b) *Grants subject to assurances in application.* Each grant shall be subject to all assurances made by the grantee in its application for the grant as required by §§ 17.254 through 17.256, and

(c) *Grants subject to limitations on use of funds.* Each grant shall be subject to the limitations on the use of grant funds, either for direct or indirect costs, as prescribed in §§ 17.259 through 17.261, and

(d) *Grants subject to special provisions.* Each grant shall be subject to any special terms or conditions which may be warranted by circumstances applicable to individual applications, and specified in the certificate of award.

[33 FR 6012, Apr. 19, 1968. Redesignated and amended at 61 FR 21966, 21969, May 13, 1996]

§ 17.259 Direct costs.

Direct costs to which grant funds may be applied may include in propor-

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tion to time and effort spent, but are not limited to, fees and costs directly paid to personnel or for fringe benefits, rent, publications, educational programs, training, research, demonstration activities, or construction carried out in connection with pilot programs for planning or exchange of information.

[33 FR 6012, Apr. 19, 1968. Redesignated at 61 FR 21966, May 13, 1996]

§ 17.260 Patient care costs to be excluded from direct costs.

Grant funds for planning or implementing agreements for the exchange of medical information shall not be available for the payment of any hospital, medical, or other costs involving the care of patients except to the extent that such costs are determined to be incident to research, training, or demonstration activities carried out in connection with an exchange of information program.

[33 FR 6012, Apr. 19, 1968. Redesignated at 61 FR 21966, May 13, 1996]

§ 17.261 Indirect costs.

The grantee shall allocate expenditures as between direct and indirect costs according to generally accepted accounting procedures. The amount allocated for indirect costs may be computed on a percentage basis or on the basis of a negotiated lump-sum allowance. In the method of computation used, only indirect costs shall be included which bear a reasonable relationship to the planning or program funded by the grant and shall not exceed a percentage greater than the percentage the total institutional indirect cost is of the total direct salaries and wages paid by the institution.

[33 FR 6012, Apr. 19, 1968. Redesignated at 61 FR 21966, May 13, 1996]

§ 17.262 Authority to approve applications discretionary.

Notwithstanding any recommendation by the Subcommittee on Academic Affairs of the Special Medical Advisory Group, or any recommendation by the Under Secretary for Health or designee, the final determination on

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any application for a grant rests solely with the Secretary.

[42 FR 54805, Oct. 11, 1977. Redesignated and amended at 61 FR 21966, 21969, May 13, 1996]

§ 17.263 Suspension and termination procedures.

Termination of a grant means the cancellation of Department of Veterans Affairs sponsorship, in whole or in part, under an agreement at any time prior to the date of completion. Suspension of a grant is an action by the Department of Veterans Affairs which temporarily suspends Department of Veterans Affairs sponsorship under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the Department of Veterans Affairs.

(a) *Posttermination appeal.* The following procedures are applicable for reviewing postaward disputes which may arise in the administration of or carrying out of the Exchange of Medical Information Grant Program.

(1) *Reviewable decisions.* The Department of Veterans Affairs reserves the right to terminate any grant in whole or in part at any time before the date of completion, whenever it determines that the grantee has failed to comply with conditions of the agreement, or otherwise failed to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) *Notice.* The Department of Veterans Affairs shall promptly notify the grantee in writing of the determination. The notice shall set forth the reason for the determination in sufficient detail to enable the grantee to respond, and shall inform the grantee of his or her opportunity for review by the Assistant Chief Medical Director as provided in this section.

(3) *Request for appeal.* A grantee with respect to whom a determination described in paragraph (a)(1) of this section has been made, and who desires review, may file with the Assistant Chief Medical Director for Academic Affairs an application for review of such determination. The grantee's application for review must be post-marked no later than 30 days after the postmarked date of notification provided pursuant to paragraph (a)(2) of this section.

(4) *Contents of request.* The application for review must clearly identify the question or questions in dispute, contain a full statement of the grantee's position in respect to such question or questions, and provide pertinent facts and reasons in support of his or her position. The Assistant Chief Medical Director for Academic Affairs will promptly send a copy of the grantee's application to the Department of Veterans Affairs official responsible for the determination which is to be reviewed.

(5) *Effect of submission.* When an application for review has been filed no action may be taken by the Department of Veterans Affairs pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend the system under a grant during proceedings under this section or otherwise to withhold or defer payments under the grant.

(6) *Consideration of request.* When an application for review has been filed with the Assistant Chief Medical Director for Academic Affairs, and it has been determined that the application meets the requirements stated in this paragraph, all background material of the issues shall be reviewed. If the application does not meet the requirements, the grantee shall be notified of the deficiencies.

(7) *Presentation of case.* If the Assistant Chief Medical Director for Academic Affairs believes there is no dispute as to material fact, the resolution of which would be materially assisted by oral testimony, both parties shall be notified of the issues to be considered, and take steps to afford both parties the opportunity for presenting their cases, at the option of the Assistant Chief Medical Director for Academic Affairs, in whole or in part in writing, or in an informal conference. Where it is concluded that oral testimony is required to resolve a dispute over a material fact, both parties shall be afforded an opportunity to present and cross-examine witnesses at a hearing.

(8) *Decision.* After both parties have presented their cases, the Assistant Chief Medical Director for Academic